

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:

ANGELA WISE and GIDEON ROMM,
on behalf of themselves and others similarly
situated,

: 11 Civ. 7345 (WHP)

Plaintiffs,

: ORDER

-against-

:

ENERGY PLUS HOLDINGS LLC,

:

Defendant.

:

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WILLIAM H. PAULEY III, District Judge:

For the reasons stated on the record on March 23, 2012, defendant Energy Plus's motion to dismiss is granted. Plaintiffs' claims under New York General Business Law sections 349 and 349-d(3) are dismissed without prejudice. Plaintiffs are granted leave to amend their complaint to plead that Energy Plus's alleged misstatements caused their injury. See Stutman v. Chemical Bank, 95 N.Y.2d 24, 29-30 (2000). Plaintiffs' claim under New York General Business Law section 349-d(7) and their claim for unjust enrichment are dismissed with prejudice. The Clerk is directed to terminate the motion pending at ECF No. 12. Plaintiffs shall file their second amended complaint by April 6, 2012.

Dated: March 23, 2012
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

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